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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Fernando Gastelum,

10 Plaintiff,

11 v.

12 HPT Suite Properties Trust,

13 Defendant.
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No. CV-18-00388-PHX-DJH

ORDER


15 This matter having recently come before the Court,

16 IT IS ORDERED that a motion pursuant to Federal Rule of Civil Procedure 12(b)
17 is discouraged if the defect can be cured by filing an amended pleading. Therefore, the
18 parties must meet and confer prior to the filing of a motion to dismiss to determine
19 whether it can be avoided.¹ Consequently, motions to dismiss must be accompanied by a
20 notice of certification of conferral indicating that the parties have conferred to determine
21 whether an amendment could cure a deficient pleading and have been unable to agree that
22 the pleading is curable by a permissible amendment. In addition, parties shall endeavor
23 not to oppose motions to amend that are filed prior to the Rule 16 Scheduling Conference
24 or within the time set forth in the Rule 16 Scheduling Order. Motions to dismiss that do
25 not contain the required certification are subject to be stricken on the Court's motion.

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27 ¹ This case is subject to the Mandatory Initial Discovery Pilot Project (MIDP).
28 Pursuant to the MIDP, parties must file answers, counterclaims, crossclaims, and replies
within the time set forth in Rule 12(a)(1)-(3), even if they have filed or intend to file a
motion to dismiss or other preliminary motion. (Doc. 4).

1 IT IS FURTHER ORDERED that Plaintiff shall serve a copy of this Order upon
2 Defendant and file notice of service.

3 Dated this 5th day of February, 2018.

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5 Honorable Diane J. Humetewa
6 United States District Judge
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